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10/693,622	10/23/2003	William Parks	10625	1519

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National IP Rights Center, LLC
Suite 400
550 Township Line Road
Blue Bell, PA 19422

EXAMINER

GREENHUT, CHARLES N

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,622

Applicant(s)

PARKS, WILLIAM

Examiner

Charles N. Greenhut

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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I. Drawings

1. The drawings are objected to under 37 CFR 1.84(h)(5) because Figures 6-9 show modified forms of construction and/or multiple views in the same figure.
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

II. Minor informalities

1. The disclosure is objected to because of the following informalities:
 - 1.1. “Field of the Invention” should read “Field of the Invention”

Appropriate correction is required.

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III. Claim Rejections - 35 USC § 112

The following is a quotation of the relevant paragraphs of 35 U.S.C. 112:

(1) The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention

1. Claims 2-3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The operation of the cams is not adequately described in the specification or shown in the drawings. The description of figures 6-8 is ambiguous.

The following is a quotation of the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - 2.1. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign

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document and are replete with grammatical and idiomatic errors. Examples of indefinite phrases are;

2.1(a) Claim 1, line 1, "A mechanism for opening permitting the release of a single cone" *examiner assumes should read "A mechanism for permitting the release of a single cone onto a road bed comprising;"*

2.1(b) Claim 1, line 3, "dual shoe mechanism under the arrangement for supporting a plurality of cones"

2.1(c) Claim 2, line 1-2, "cam is timed at the speed of the vehicle" *examiner assumes should read "cam is configured to drop a single road cone at a pre-timed interval, the duration of said pre-timed interval being based on the speed of the vehicle"*

2.2. Claims 2 and 3 recite the limitation "said cam" in line 1. There is insufficient antecedent basis for this limitation in the claims.

2.3. Claim 2 rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the cam timing and the speed of the vehicle.

IV. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-2 and 4-5 are rejected under 35 U.S.C. 102(b) as being anticipated by POURSAYADI (US 6,435,369).

1.1. With respect to claim 1, POURSAYADI discloses a reciprocating dual shoe mechanism (Fig. 9), supporting a plurality of cones (Fig. 1 (14)), permitting a single cone to be released at street level (Fig. 1 (14)), and a slide plate (Fig. 2 (30c)).

1.2. With respect to claim 2, POURSAYADI discloses all elements of claim 1 and additionally discloses a cam (Fig. 9 (146)), the cam configured to drop a single road cone at a pre-timed interval, the duration of which is based on the speed of the vehicle (Col. 3 Li. 20 et seq.). Note that POURSAYADI refers to releasing cones a set distance apart by releasing them after a certain interval of time. Since velocity is equal to distance traveled over a time, this interval must be calculated based on the speed of the vehicle and the desired distance between cones (L).

1.3. With respect to claim 4, POURSAYADI discloses at least one reciprocating shoe, supporting a plurality of road cones in a first position, locking a single cone in a

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second position, the cone released at a timed interval, a chute, and a vertical angle slide plate (30c), or (166).

1.4. With respect to claim 5, POURSAYADI discloses a pair of vertically spaced reciprocating shoes, a first pair of reciprocating shoes for supporting a stack of road cones, the first pair of shoes dropping the stack onto the a second pair of reciprocating shoes, the first pair of shoes closing to support the stack above the lowermost cone, the second pair of shoes opening to release a single road cone, a chute proximate to the mechanism, and a spring angle slide plate (Fig. 10 (166)).

V. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over POURSAYADI in view of AKITA (US 5,244,334).

1.1. With respect to claim 3, POURSAYADI teaches all elements of claim 1. POURSAYADI additionally teaches a gearbox (Fig. 3 (68)). POURSAYADI fails to teach a drive chain. AKITA teaches a drive chain (Fig. 6 (16)). It would have been obvious to one of ordinary skill in the art to modify POURSAYADI with the chain of AKITA. The chains transmit power over a distance thereby allowing the drive means

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to be placed clear of the reciprocating shoes. The chain has the additional advantage of providing more leeway in terms of alignment than a gear coupled to a rigid shaft.

This is beneficial when used in a moving vehicle.

2. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over POURSAYADI in view of GARCIA (US 6,752,582).

2.1. With respect to claim 6, POURSAYADI teaches all elements of claim 5.

POURSAYADI fails to teach a microprocessor programmed with the speed of the vehicle. GARCIA teach a microprocessor (Col. 6 Li. 41-44) programmed with the speed of the vehicle (Col. 6 Li. 67 – Col. 7 Li. 1). It would have been obvious to one of ordinary skill in the art to modify POURSAYADI with the microprocessor of GARCIA in order to allow the operator to program the apparatus to release cones at a set interval of time, thereby enabling the operator to space adjacent cones at a desired distance.

VI. Conclusion


1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Greenhut whose telephone number is (571) 272-1517.

The examiner can normally be reached on 7:30am - 4:00pm EST.

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3. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.
4. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

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